

AMENDED IN ASSEMBLY APRIL 14, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1522**

**Introduced by Assembly Member Margett**

February 26, 1999

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An act to amend Section 4501.1 of the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1522, as amended, Margett. Prisoners: aggravated battery.

Existing law provides *that* every person confined in the state prison who commits a battery upon the person of any officer or employee of the state prison by “gassing,” as defined, is guilty of aggravated battery. Existing law also provides that these provisions will only remain operative until January 1, 2000, as specified.

This bill would *provide that the above-described provisions of law are applicable to any “peace officer” rather than “officer of the state prison,”* and would delete the provisions that would render the ~~above-described~~ provisions of law inoperative after January 1, 2000, thereby continuing those provisions indefinitely.

By *expanding the scope of, and* extending the effective operation of, an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated

by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4501.1 of the Penal Code is  
2 amended to read:

3 4501.1. (a) Every person confined in the state prison  
4 who commits a battery upon the person of any ~~officer~~  
5 *peace officer, as defined in Chapter 4.5 (commencing*  
6 *with Section 830) of Title 3 of Part 2*, or employee of the  
7 state prison by gassing is guilty of aggravated battery and  
8 shall be punished as specified in Section 4501.5.

9 (b) For purposes of this section, “gassing” means  
10 intentionally placing or throwing, or causing to be placed  
11 or thrown, upon the person of another, any mixture of  
12 human excrement or other bodily fluids or substances.

13 (c) The warden or other person in charge of the state  
14 prison shall use every available means to immediately  
15 investigate all reported or suspected violations of  
16 subdivision (a). If there is probable cause to believe that  
17 the inmate has violated subdivision (a), the chief medical  
18 officer of the state prison, or his or her designee, may,  
19 when he or she deems it medically necessary to protect  
20 the health of an officer or employee who may have been  
21 subject to a violation of this section, order the inmate to  
22 receive an examination or test for hepatitis or  
23 tuberculosis or both hepatitis and tuberculosis on either  
24 a voluntary or involuntary basis immediately after the  
25 event, and periodically thereafter as determined to be  
26 necessary by the medical officer in order to ensure that  
27 further hepatitis or tuberculosis transmission does not  
28 occur. These decisions shall be consistent with an  
29 occupational exposure as defined by the Center for  
30 Disease Control and Prevention. The results of any  
31 examination or test shall be provided to the officer or

1 employee who has been subject to a reported or  
2 suspected violation of this section. Nothing in this  
3 subdivision shall be construed to otherwise supersede the  
4 operation of Title 8 (commencing with Section 7500).  
5 Any person performing tests, transmitting test results, or  
6 disclosing information pursuant to this section shall be  
7 immune from civil liability for any action taken in  
8 accordance with this section.

9 (d) The warden or other person in charge of the state  
10 prison shall refer all reports of aggravated battery by  
11 gassing to the local district attorney for prosecution.

12 (e) The Department of Corrections shall report to the  
13 Legislature, by January 1, 2000, its findings and  
14 recommendations on gassing incidents at the state prison  
15 and the medical testing authorized by this section. The  
16 report shall include, but not be limited to, all of the  
17 following:

18 (1) The total number of gassing incidents at each state  
19 prison facility up to the date of the report.

20 (2) The disposition of each gassing incident, including  
21 the administrative penalties imposed, the number of  
22 incidents that are prosecuted, and the results of those  
23 prosecutions, including any penalties imposed.

24 (3) A profile of the inmates who commit the  
25 aggravated batteries, including the number of inmates  
26 who have one or more prior serious or violent felony  
27 convictions.

28 (4) Efforts that the department has taken to limit  
29 these incidents, including staff training and the use of  
30 protective clothing and goggles.

31 (5) The results and costs of the medical testing  
32 authorized by this section.

33 SEC. 2. No reimbursement is required by this act  
34 pursuant to Section 6 of Article XIII B of the California  
35 Constitution because the only costs that may be incurred  
36 by a local agency or school district will be incurred  
37 because this act creates a new crime or infraction,  
38 eliminates a crime or infraction, or changes the penalty  
39 for a crime or infraction, within the meaning of Section  
40 17556 of the Government Code, or changes the definition

- 1 of a crime within the meaning of Section 6 of Article
- 2 XIII B of the California Constitution.

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